

JACK RUSSO (State Bar No. 96068)
TIM C. HALE (State Bar No. 115905)
JOHN KELLEY (State Bar No. 100714)
RUSSO & HALE LLP
401 Florence Street
Palo Alto, CA 94301
Telephone: (650) 327-9800
Facsimile: (650) 327-3737
Email: jrusso@computerlaw.com
thale@computerlaw.com
jkelley@computerlaw.com

Attorneys for defendants and counterclaimants
WESLEY MAYDER, ROMI MAYDER,
SILICON TEST SOLUTIONS LLC and
SILICON TEST SYSTEMS INC

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

VERIGY US, INC., a Delaware Corporation,

Plaintiff,

v.

ROMI OMAR MAYDER, an individual;
WESLEY MAYDER, an individual; SILICON
TEST SYSTEMS, INC., a California
Corporation; and SILICON TEST
SOLUTIONS, LLC, a California Limited
Liability Corporation, inclusive,

Defendants.

AND RELATED CROSSCLAIMS.

Case No. 5:07-cv-04330-RMW (HRL)

**[PROPOSED] ORDER RE MOTION FOR
SUMMARY ADJUDICATION AND
MOTION TO MODIFY PRELIMINARY
INJUNCTION ORDER**

Date: August 15, 2008

Time: 9:00 a.m.

Ctrm: 6

Before the Hon. Ronald Whyte

Complaint Filed: August 22, 2007

Trial Date: December 8, 2008 (jury trial)

(Defendants have elected to reserve their jury
trial rights under F.R.C.P., Rule 38)

1 The motion by Defendants for (1) summary adjudication as to Plaintiff's Ninth Claim for
2 Relief and as to certain facts and issues concerning public disclosure of information in published
3 patents, patent applications, and other materials and for (2) modification of the pending
4 Preliminary Injunction Order in this action came on regularly for hearing before the Court at the
5 above-named date and time. All parties were represented at the hearing thereon by competent
6 counsel. Good cause appearing therefor, and satisfactory proof having been made, the Court
7 ORDERS as follows:

8 1. Summary Adjudication for the Defendants as to Plaintiff's Ninth Claim for Relief, for
9 alleged violation of the Lanham Act, Section 43(a), is GRANTED;

10 2. Summary Adjudication for the Defendants as to the issue of whether information
11 contained within publicly available patents, patent applications, and other materials may or may
12 not constitute trade secrets is GRANTED, and none of the information contained in the patents,
13 patent applications, and other materials filed by Defendants with the Court on their motion shall
14 constitute the trade secrets of Plaintiff in this action; and,

15 3. In light of the foregoing and for other good cause shown, the pending Preliminary
16 Injunction Order entered in this action is modified as follows:

17 Notwithstanding anything contained in the pending Preliminary Injunction Order:

18 a. Defendants and any other persons acting in concert with them are hereafter
19 permitted to develop, market, advertise, sell, license, and in all other ways otherwise
20 commercially exploit the Flash Enhancer product and any enhancements thereto for all
21 devices and/or systems in exchange for escrowing fifteen percent (15%) of the gross
22 revenues obtained from any such sales pending the outcome of this case; and,

23 b. Without limiting the generality of the foregoing, Defendants and any other
24 persons acting in concert with them are hereafter permitted to develop, market, advertise,
25 sell, license, and in all other ways otherwise commercially exploit the Flash Enhancer
26 product and any enhancements thereto for any (a) any non-Verigy systems and (b) any
27 customers producing NOR and/or NAND memory devices and/or systems in exchange for
28 escrowing fifteen percent (15%) of the gross revenues obtained from such sales pending

1 the outcome of this case; and,

2 c. Without limiting the generality of any of the foregoing, Defendants and any
3 other persons acting in concert with them are hereafter permitted to develop and further test
4 the Flash Enhancer product and any enhancements thereto with and in cooperation with
5 beta test users, provide samples of Flash Enhancer and any enhancements thereto to beta
6 test users, and communicate fully with such beta test users concerning the operation,
7 performance, testing, modification, and future sales or licensing of Flash Enhancer and any
8 enhancements thereto, and any related matters in exchange for escrowing fifteen percent
9 (15%) of the gross revenues obtained from any such sales pending the outcome of the trial
10 (and any subsequent appeals) in this matter.

11 IT IS SO ORDERED:

12 Dated: _____, 2008

13 United States District Judge